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July 16, 2004

Ingham County Circuit Court Clerk
30th Circuit Court
Mason Courthouse
Mason, MI 48854

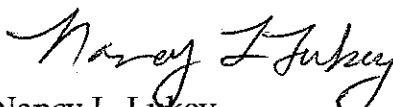
Re: **Linda A. Watters v The Wellness Plan**
File No. 03-1127-CR

Dear Clerk:

In regard to the above-referenced matter, enclosed please find an original and a Judge's copy of Molina Healthcare of Michigan, Inc.'s Response to Objections to Rehabilitator's Plan to Sell the Right to Serve the Members of the Wellness Plan and this Proof of Service.

Sincerely,

COOK, GOETZ, ROGERS & LUKEY, P.C.


Nancy L. Lukey

NLL/gz

Enclosures

**STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY**

LINDA A. WATTERS, COMMISSIONER
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 03-1127-CR
Hon. William E. Collette

THE WELLNESS PLAN
a Michigan Health Maintenance Organization,

Respondent.

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William A. Chenoweth (P27622)
David W. Silver (24781)
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**MOLINA HEALTHCARE OF MICHIGAN, INC.'S RESPONSE TO OBJECTIONS TO
REHABILITATOR'S PLAN TO SELL THE RIGHT TO SERVE THE MEMBERS OF
THE WELLNESS PLAN**

Molina Healthcare of Michigan, Inc ("Molina Michigan"), by and through its attorneys, Cook, Goetz, Rogers & Lukey, P.C., hereby responds to the objections filed by Total Health Care, Inc. ("Total Health"), Midwest Health Plan, Inc. and Midwest Health Center, P.C. (collectively, "Midwest"), the Detroit City Council, and the Committee to Save TWP. The objectors contest the Rehabilitator's **Petition for Approval of the Rehabilitator's Plan to Sell the Right to Serve the Members of The Wellness Plan** ("Petition").

Total Health and Midwest object to the Rehabilitator's plan to sell to Molina Michigan the right to serve The Wellness Plan's ("Wellness") members in Macomb County. Total Health also objects to the Rehabilitator's plan to sell to Molina Michigan the right to serve Wellness members in Oakland County.

The Detroit City Council's Objection appears to be a general objection to the Petition.

The Committee to Save TWP objects in general to the Rehabilitator's Plan to sell the right to serve Wellness members on the grounds that Wellness is financially sound and, therefore, the Rehabilitator should not be permitted to sell Wellness assets.

No objections were filed specifically contesting the Rehabilitator's plan to sell to Molina Michigan the right to serve Wellness members in Muskegon/Oceana County.

Molina Michigan notes that Gambro Healthcare, Inc. ("Gambro") filed objections to the Petition but it does not appear that Gambro objects to the Petitioner's plan to sell the right to serve Wellness members to Molina Michigan. Gambro requests that it be paid for services rendered between July 1, 2003 and the date of transfer, requests priority in payment and requests this Court to order the Rehabilitator to file an amended plan if the proceeds from the sale of Wellness assets are insufficient to pay all outstanding claims. Molina Michigan does not have any obligations or liabilities for payment of the claims that Gambro asserts. Therefore, Molina Michigan does not respond to Gambro's objections.

Molina Michigan respectfully requests this Court to grant the Rehabilitator's Petition and issue an order approving the Rehabilitator's plan sell to Molina Michigan the right to serve Wellness members in Wayne, Oakland, Macomb, and Muskegon/Oceana counties. Further, Molina Michigan respectfully requests this Court to deny the objections filed by Total Health, Midwest, the Detroit City Council and the Committee to Save TWP in so far as the objections

pertain to the Rehabilitator's plan to sell to Molina Michigan the right to serve Wellness members in Wayne, Oakland, Macomb and Muskegon/Oceana counties.

In support of its response to the objections of Total Health, Midwest, Detroit City Council and the Committee to Save TWP, Molina Michigan states as follows:

General Response

None of the objectors argue that the Rehabilitator acted unlawfully in selecting Molina Michigan's offer to purchase the right to serve Wellness members in Wayne, Oakland, Macomb and Muskegon/Oceana counties. None contend that the bid process was legally defective.

As competing bidders for the right to serve members in Oakland and Macomb counties, Total Health and Midwest assert that the Rehabilitator should have selected their offers simply because they bid higher per member purchase prices than Molina Michigan. Molina Michigan demonstrates below in specific responses regarding Oakland and Macomb counties that Total Health's and Midwest's assertions have no merit.

The Petition indicates that the Rehabilitator expects that her plan to sell the rights to serve the members of Wellness will generate sufficient revenues to satisfy creditor claims against Wellness. **Petition, p 2.** The Petition also indicates that Molina Michigan's and McLaren Health Plan's offers will maximize the amount of return to creditors of Wellness. **Petition, p. 7.** Notably, no major providers or other creditors have filed objections to the Petition.

The Detroit City Council's Objection is critical of the Michigan Medicaid program and the guidelines and decisions of the State of Michigan in the 2004 Medicaid Invitation to Bid ("Medicaid ITB") process, and allege that Wellness and Total Health were disfavored in the Medicaid ITB process. **Detroit City Council Objection, pp. 2-3.** Molina Michigan takes no position with respect to the Detroit City Council's allegations or claims concerning the Medicaid

program and State Medicaid ITB guidelines and decisions. Molina Michigan submits, however, that alleged deficiencies in the Medicaid program and Medicaid ITB process are not relevant to the Petition before this Court. Such allegations or claims are within the jurisdiction of appropriate State agencies and appellate courts when an aggrieved party appeals a decision or other action by such an agency.

Molina Michigan does not take a position with respect to the Committee to Save TWP's assertions regarding the financial condition of Wellness. Molina Michigan submitted an offer to purchase the right to serve Wellness members in accordance with the solicitation letter issued by the Rehabilitator on May 12, 2004. Molina Michigan's offer did not address, nor was it requested by the Rehabilitator to address, any issues with respect to Wellness' financial condition.

Molina Michigan is a Michigan business corporation licensed as a health maintenance organization ("HMO") in Michigan. Molina Michigan has been operating as a licensed HMO in Michigan since 2000 and meets or exceeds HMO financial requirements for working capital, net worth and risk-based capital. Its principal business office is located in Troy, Michigan.

Contrary to allegations by some objectors, Molina Michigan is **not** a new entrant to the Medicaid market in Michigan. Molina Michigan has been operating as a Medicaid health plan in Michigan since 1997 and is strongly committed to continue serving Medicaid members in Michigan. Through competitive bidding processes, the State of Michigan awarded Molina Michigan contracts to serve Medicaid enrollees in Wayne County and other counties in Michigan. Currently, Molina Michigan serves about 89,000 Medicaid members in the metropolitan Detroit area, including Wayne, Oakland and Macomb counties, and over 30 other counties throughout Michigan. The Michigan Medicaid program and Michigan communities

have benefited, and continue to benefit, from Molina Michigan's ability to provide for quality health care for the Medicaid population in Michigan.

Molina Michigan was successful in the recent Medicaid ITB process and will enter into a new contract with the State of Michigan, effective October 1, 2004, to serve Medicaid members in Wayne, Oakland, Macomb, Muskegon/Oceana and other counties in Michigan. In order to be awarded a new Medicaid contract, it was necessary for Molina Michigan to demonstrate its experience with the Michigan Medicaid program and meet numerous financial, administrative, and provider network requirements.

Molina Michigan contracts with Michigan health care providers in Wayne, Oakland and Macomb counties and throughout Michigan. Molina Michigan has the provider network capacity to serve 270,000 members. Molina Michigan's provider network overlaps with the Wellness provider network by almost 90% in Wayne County and by nearly 86% overall. This means that Wellness members could continue to receive care from their current primary care physicians after enrolling with Molina Michigan. **Molina Offer Letter, p. 2 (Attached to Petition); Attachment B (Attachment B to Molina Michigan's Offer Letter is not included with the Petition. Attachment B deals with provider network overlap and is 66 pages in length. Page 1 of Attachment B is attached to this Response for the Court's reference.)**

Molina Michigan's Chief Executive Officer, Chief Financial Officer, Medical Director, Director of Provider Affairs and other managers and employees have extensive Medicaid and commercial managed care and business experience in Wayne County and other areas of Michigan and are physically located in offices in Southeast Michigan and Grand Rapids, Michigan. Molina Michigan would give first preference to qualified Wellness employees for

new positions resulting from the additional membership, as well as with regard to other openings. **Molina Michigan Offer Letter, p. 3.**

Molina Michigan has successfully completed transactions in Michigan for the purchase of Medicaid contract rights from other HMOs. In August and October 2003, Molina Michigan acquired from other Michigan HMOs the rights to serve over 40,000 Medicaid members. Molina Michigan provided a seamless transition to those members who were transferred to Molina Michigan. Molina Michigan will work cooperatively with Wellness personnel, community leaders and the State of Michigan to accomplish a smooth transition of Wellness members to Molina Michigan.

Molina Michigan has successfully expanded its operations to serve more Medicaid members in Michigan by virtue of its sound financial condition and administrative capabilities and the financial strength and administrative capabilities of its parent company, Molina Healthcare, Inc. Molina Michigan is a wholly owned subsidiary of Molina Healthcare, Inc., a Delaware corporation. Molina Healthcare, Inc. is a publicly-traded stock company. Its principal executive offices are located in Long Beach, California.

Molina Healthcare, Inc. is also the parent company of health plans that are licensed as HMOs in other States. As of July 1, 2004, these HMOs served 715,000 enrollees who are eligible for Medicaid or other programs for low-income individuals or families. Molina Healthcare, Inc. also owns and operates 21 primary care clinics in California.

Response Regarding Oakland County

Total Health contends that this Court should order the Rehabilitator to sell the right to serve the members to Total Health because it bid a higher per member price than Molina Michigan for the right to serve Wellness members in Oakland County.

Total Health attached to its Objections a copy of its offer letter to purchase the rights to serve Wellness members. The offer letter states that the purchase transaction will be funded by a transfer of funds from a “newly formed holding company”. **Total Health Offer Letter, p. 1.** The funding agreement between the holding company and Total Health is not attached to Total Health’s Objections and Total Health does not otherwise provide any details regarding the transfer of funds from the new holding company to Total Health. Total Health’s offer letter does not indicate that the holding company has been created, or if it is created, where it is incorporated or organized. The Petition, in fact, indicates that there are issues related to the new holding company that would need to be addressed. **Petition, p. 13.** Also, the Petition indicates that funds would need to come from Total Health’s operations to repay the loan to the holding company. Total Health’s offer says that it will have no debt as a result of the funding transaction from the new holding company, but does not explain how this would be accomplished. **Petition, p. 13; Total Health Offer Letter, p. 1.**

By comparison to Total Health’s offer, Molina Michigan’s offer shows that the capital and funds are readily available for Molina Michigan’s purchase of the right to serve the Wellness members. As part of the Medicaid ITB process, Molina Healthcare Inc. recently transferred \$20 million to Molina Michigan. **Molina Michigan Offer Letter, p. 2.** As a result of this capital infusion, Molina Michigan has equity levels that meet or exceed projected capital requirements for a plan with 270,000 members. If all of the Wellness members were transferred to Molina Michigan, total enrollment would be about 190,000. **Molina Michigan Offer Letter, p. 2.** In addition, Molina Michigan’s parent company Molina Healthcare, Inc. will provide the funds to Molina Michigan to facilitate the consummation of the purchase transaction. **Molina Michigan Offer Letter, p. 2.** Molina Healthcare, Inc is a publicly traded company with substantial cash

and other investments. Molina Healthcare, Inc. is subject to regulation by the SEC and its financial filings are matters of public record.

Total Health's Offer Letter indicates that its proposed purchase price is subject to an adjustment based on the actual number of members assigned to Total Health. **Total Health Offer Letter, p. 1.** The Offer Letter does not explain or provide any details regarding the proposed adjustment. Molina Michigan offered a fixed dollar amount purchase price for the right to serve the Wellness members in Oakland County. The price is only subject to adjustment for increases or decreases above or below a 15% threshold. This adjustment mechanism protects Wellness and Molina Michigan against significant, unforeseen changes. **Molina Michigan Offer Letter, p.p. 1, 3; Attachment A (Attachment A to Molina Michigan's Offer Letter is not included with the Petition; it is attached to this Response as Attachment A for the Court's reference.)**

The Petition and Total Health's Offer Letter indicate that Total Health has only about a 15% provider network overlap with the current Wellness provider network in Oakland County. **Petition, p.13; Total Health Offer Letter, p. 2.** Molina Michigan has a provider network overlap of 73.74% in Oakland County. **Petition, p. 12; Attachment B.** Thus, Molina Michigan can better provide for continuity of care of Wellness members in Oakland County.

As indicated in the Petition, Total Healthcare was not recommended to receive a new Medicaid contract in the Medicaid Invitation to Bid process. **Petition, p. 13.** Without a Medicaid contract, Total Health would not have legal authority to enroll and serve any Medicaid members.

Response Regarding Macomb County

Total Health contends that this Court should order the Rehabilitator to sell the right to serve the members to Total Health because it bid a higher per member price than Molina Michigan for the right to serve Wellness members in Macomb County. Midwest contends that it bid a higher price per member than Molina Michigan and the Rehabilitator relied on incorrect data provided by Molina Michigan in accepting Molina Michigan's bid. Midwest requests this Court to award the right to provide services to the highest bidder, Midwest. Molina Michigan submits that the Rehabilitator acted reasonably and prudently in selecting Molina Michigan's bid based on an overall comparison of the competing offers and the qualifications of the potential buyers.

This Response discusses above several reasons supporting the selection of Molina Michigan's bid over Total Health's bid for Oakland County. The same reasons apply with respect to Macomb County, except that it appears from the Petition that Total Health has a greater provider network overlap in Macomb County than in Oakland County. **Petition, p. 11.** Total Health's Objections do not mention provider network overlap. In any event, it is not clear that Total Health's network overlap is greater than Midwest's. Thus, the Rehabilitator had sound reasons, including provider network overlap, to reject Total Health's offer over competing bidders.

Midwest contends that its offered purchase price is higher than Molina Michigan's using the member enrollment figures assumed in Midwest's offer and Objections. However, Midwest's bid is lower than Total Health's bid assuming these same enrollment figures. Thus, contrary to Midwest's assertion, Midwest was not the highest bidder even under Midwest's own calculations of its offered purchase price.

Further, Midwest's offered purchase price of \$100 per member would only be paid for members who remain with Midwest for three full months after the effective date of the new Medicaid contract. Also, Midwest's Offer provides that it will not make final payment for the right to serve Wellness members until four months after the effective date of the new Medicaid contract. **Midwest Offer Letter, p. 2.** Molina Michigan's offered purchase price does not decrease for each former Wellness member who transfers from Molina Michigan to another HMO after October 1, 2004 (the assumed effective date of the new Medicaid contract). Molina Michigan's offered purchase price is not contingent on members remaining with Molina Michigan for any minimum period of time. Molina Michigan's offer does not delay payment of the purchase price for four months. Molina Michigan offered to purchase the right to serve members in Macomb County. It did not propose a per member price to purchase individual members or a specific group of members. Molina Michigan included an adjustment mechanism in its offer to protect Wellness and Molina Michigan against significant, unforeseen changes in circumstances. The total purchase price is adjusted only for decreases or increases above a 15% threshold.

Midwest claims that Molina Michigan provided inaccurate enrollment information to the Rehabilitator. Molina Michigan denies any implication that it provided enrollment numbers to the Rehabilitator with the intent of misleading the Rehabilitator. Molina Michigan obtained from Wellness the enrollment numbers shown on Attachment B to Molina's Michigan's Offer Letter. These enrollment numbers show the counties where the members receive their care rather than the counties in which they reside; they were used for analysis of provider network overlap.

It is apparent, for the reasons discussed above, that Molina's offer was the best offer overall for Macomb County when considering all of the factors listed in this Court's May 11

Order and the Rehabilitator's May 12 solicitation letter. In evaluating competing bids, the Rehabilitator reasonably determined that Molina Michigan's offer best satisfied the selection criteria and the interests of Wellness members, creditors and the public. The per member prices offered by Total Health and Midwest could not simply stand alone as determinative factors in selecting among the competing offers. Adjustments to the purchase price, other terms and conditions of the purchase price, funding availability, provider network overlap and other qualifications of the bidders must also be considered and weighed.

Relief

For all of the reasons discussed above and for the reasons set forth in the Petition, Molina Michigan respectfully requests this Court to enter an order that:

1. grants the relief requested by the Rehabilitator in the Petition with respect to the sale to Molina Michigan of the right to serve Wellness members; and
2. denies the objections filed by Total Health, Midwest, the Detroit City Council and the Committee to Save TWP with the respect to the sale of the right to serve Wellness members to Molina Michigan.

Respectfully submitted,

COOK, GOETZ, ROGERS & LUKEY, P.C.

By: Nancy L. Lukey
Nancy L. Lukey (P28954)
Attorneys for Molina Healthcare of Michigan, Inc.
36700 Woodward Avenue, Suite 101
Bloomfield Hills, Michigan 48304-0929
(248) 642-4585

Date: July 16, 2004

Attachment A
Molina Healthcare of Michigan, Inc.
Purchase Price Per County

County		Offering
Genesee	\$	3,000,000
Lapeer	\$	50,000
Macomb	\$	400,000
Muskegon/Oceana	\$	3,000,000
Oakland	\$	550,000
Wayne	\$	15,000,000
Total	\$	22,000,000

THE WELLNESS PLAN PROVIDER NETWORK CONTINUITY OF OVERLAP SUMMARY

County	Wellness PCPs	Wellness Members	Molina PCPs with Contracts	Molina PCPs W/LOI	Wellness Membership W/Contracts	Wellness Membership W/LOI	Total Membership Overlap including LOI	% of Membership Continuity	Not Affiliated	Not Affiliated Membership
Genessee	77	12078	0	66	0	11939	11939	98.85%	11	139
Lapeer	4	315	2	0	127	0	127	40.32%	2	188
Macomb	32	3264	11	0	1206	0	1206	36.95%	21	2058
Muskegon	66	10455	54	6	6140	4240	10380	99.28%	6	75
Newaygo	14	526	0	0	0	0	0	0.00%	14	526
Oakland	78	15464	23	7	3802	7601	11403	73.74%	48	4061
Oceana	5	724	4	0	289	0	289	39.92%	1	435
Ottawa	1	271	0	0	0	0	0	0.00%	1	271
Wayne	210	61560	77	50	12132	42502	54634	88.75%	83	6926
TOTALS	487	104657	171	129	23696	56282	89978	85.97%	187	14679

**STATE OF MICHIGAN
CIRCUIT COURT FOR THE 30TH JUDICIAL CIRCUIT
INGHAM COUNTY**

LINDA A. WATTERS, COMMISSIONER
OFFICE OF FINANCIAL AND INSURANCE SERVICES
FOR THE STATE OF MICHIGAN,

Petitioner,

v

File No. 03-1127-CR
Hon. William E. Collette

THE WELLNESS PLAN
a Michigan Health Maintenance Organization,

Respondent.

E. John Blanchard (28881)
William A. Chenoweth (P27622)
David W. Silver (24781)
Assistant Attorneys General
Attorneys for the Wellness Plan
Insurance & Banking Division
P.O. Box 30754
Lansing, Michigan 48909
(517) 373-1160

PROOF OF SERVICE

Nancy L. Lukey, states that on July 16, 2004, she did serve copies of Molina Healthcare of Michigan, Inc.'s Response To Objections To Rehabilitator's Plan To Sell The Right To Serve The Members Of The Wellness Plan and this Proof of Service by enclosing copies of said documents in sealed envelopes 1) by hand-delivery on the Rehabilitator, in care of E. John Blanchard, William A. Chenoweth and David W. Silver, Assistant Attorneys General, Insurance & Banking Division, Williams Building, 525 West Ottawa Street, Lansing, Michigan 48913; and

2) by first-class mail to the following:

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Lansing, MI 48933

COMMITTEE TO SAVE TWP

A.R. Young
18400 Lesure
Detroit, MI 48235

TOTAL HEALTH CARE, INC.

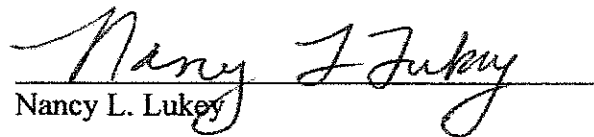
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DETROIT CITY COUNCIL

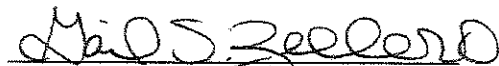
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124 W. Allegan Street, Suite 800
Lansing, MI 48933-1742


Nancy L. Lukey

Subscribed and sworn to before
me on the 16th day of July, 2004.



Gail S. Zellers, Notary Public
Oakland County, Michigan
Acting in Oakland County
My Commission Expires: 10/02/08

GAIL S. ZELLERS
NOTARY PUBLIC, Oakland County, Mich.
Acting in Oakland County
My Commission Expires 10-02-2008